

N° 543.

---

## BELGIQUE ET POLOGNE

Convention concernant certaines questions relatives aux biens, droits et intérêts, signée à Bruxelles le 30 décembre 1922.

---

## BELGIUM AND POLAND

Convention concerning certain questions relating to private property, rights and interests, signed at Brussels, December 30, 1922.

---

<sup>1</sup>TRADUCTION. — TRANSLATION.No. 543. — CONVENTION<sup>2</sup> BETWEEN BELGIUM AND POLAND CONCERNING CERTAIN QUESTIONS RELATING TO PRIVATE PROPERTY, RIGHTS AND INTERESTS. SIGNED AT BRUSSELS, DECEMBER 30, 1922.

---

*French official text communicated by the Minister for Foreign Affairs of Belgium. The registration of this Convention took place December 29, 1923.*

---

HIS MAJESTY THE KING OF THE BELGIANS, of the one part, and THE PRESIDENT OF THE POLISH REPUBLIC, of the other part, being desirous of providing, by common agreement, for the settlement of certain questions concerning the property, rights and interests of their respective nationals in each other's countries, have appointed for this purpose as their plenipotentiaries :

HIS MAJESTY THE KING OF THE BELGIANS :

M. Henri JASPAR, Minister for Foreign Affairs ;

THE PRESIDENT OF THE POLISH REPUBLIC :

Count SOBANSKI, Envoy Extraordinary and Minister Plenipotentiary of the Polish Republic, accredited to His Majesty the King of the Belgians,

who, after having communicated their full powers, found to be in good and due form, have agreed upon the following Articles :

*Article I.*

Poland shall take all the necessary steps to carry out restitution, of the kind provided for in paragraphs (a) and (b) of Article 297 and in Article 238 of the Treaty of Versailles, concluded with Germany on June 28, 1919, and in the corresponding Articles of the other Treaties of Peace, in so far as the property, rights and interests which have to be restored to Belgian nationals, including companies and associations in which they are interested, are situated in Polish territory. The compensation provided for in the above Articles shall continue to be a charge upon the enemy countries. In cases in which, owing to transfer or conversion to other uses prior to the present Treaty and redounding to the advantage of Poland, such restitution would prove impossible or difficult, Poland shall make just compensation to the owners.

Belgium shall undertake the same obligations towards Poland.

Nevertheless, the restitution referred to above, in execution of Article 238 of the Treaty of Versailles and of the corresponding Articles in the other Treaties of Peace, may, in the case of machinery or objects taken away from Belgium, be delayed at the request of Poland until such time as the procedure for the restitution to Polish nationals of machinery or objects taken away by Germany from Poland shall have been determined.

---

<sup>1</sup> Traduit par le Secrétariat de la Société des Nations.

<sup>1</sup> Translated by the Secretariat of the League of Nations.

<sup>2</sup> The exchange of ratifications took place September 20, 1923.

The restitution provided for in the present Article shall similarly be delayed, at the request of Poland and subject to the payment of just compensation by the latter Power, so long as it might prejudice Polish security and national defence.

*Article 2.*

Belgians in Poland and Poles in Belgium shall benefit, in the same way as the said countries' own nationals, by the laws of these countries which concern the cancellation of the acts of enemy authorities in enemy country or in territory occupied by the enemy.

*Article 3.*

The exceptional war measures and measures of transfer, as defined in paragraph 3 of the Annex to Section IV of Part X of the Treaty of Versailles and in the corresponding clauses of the other Treaties of Peace, which were adopted in Belgium and which affect the property, rights and interests of Polish subjects, including companies and associations in which they were interested, when liquidation has not been completed, shall be discontinued or stayed, and the property, rights or interests concerned shall be restored to their owners unless they have already been converted to other uses.

Nevertheless, as an exceptional measure, liquidations which are in progress may be completed when, owing to the circumstances of the case, a suspension or stay of the liquidation might prejudice the interests concerned.

Polish subjects whose property, rights or interests, including industrial, literary or artistic property, may have been the subject in Belgium of measures of liquidation, cession, license, lease or any other measures of total or partial transfer which were applied to the property, rights and interests of ex-enemy subjects, shall receive directly their share of the yield of the said liquidation, cession, license, lease or other measures of partial or total transfer.

*Article 4.*

Poland undertakes, on condition of receiving reciprocal treatment, that property, rights and interests restored to Belgian subjects, in execution of Article 1 of the present Convention, shall receive the same treatment as is accorded to the property, rights and interests of the same nature belonging to her own subjects ; and that, after the coming into force of the present Convention, she will not subject the said property, rights and interests to any measures affecting their ownership which is not applied equally to the property, rights and interests of her own subjects ; and, further, that she will pay proper compensation in cases where such measures may be adopted.

*Article 5.*

Poland recognises the validity, in the territories transferred to Poland, of all the rights acquired by Belgian subjects or by companies in which the greater part of the share capital belongs to Belgian nationals, subject to the provisions of the laws in force in those territories at the time when the said rights were acquired.

In particular, Poland recognises the validity of concessions, or leases of concessions granted before August 1, 1914, for the carrying on of public services ; of mining concessions, or the sub-letting of mining concessions and rights acquired with a view to prospecting, or obtaining mining concessions ; and especially of concessions for the exploitation of petroleum or other bituminous products, coal, iron or other minerals, when such concessions were granted, either by the former States, provinces or municipalities, or by the owners of the land or of the concessions. Such

concessions shall remain valid under the terms, and until the expiration of the periods, laid down in the deeds of concession or lease, subject to the following conditions.

Holders or lessees of concessions, no matter what the nature of the concession may be, whose interests have been affected by war legislation, or by transfer, or who have been temporarily deprived of the enjoyment of their rights, may obtain a prolongation of the period of their concessions. The extent of this prolongation shall be determined with due regard to the time during which the rights have been withheld.

Such prolongations shall be granted by friendly agreement between the parties interested; in case such an agreement cannot be arrived at, the question shall be submitted to an arbitrator selected, by agreement, by the High Contracting Parties.

If prolongations granted as above should involve any serious injury to the interests of one of the parties, as a result of alterations in the economic conditions, proper compensation shall be awarded to the injured party by an arbitrator who shall be selected, by agreement, by the High Contracting Parties. In the case of concessions for public services, the terms of contracts, including among others those affecting tariffs, duration, repurchase, dues, etc., shall be revised and adapted to the general economic conditions of the present day.

#### *Article 6.*

In cases in which the greater part of the share capital of a company or enterprise, constituted under the German, Austro-Hungarian, Bulgarian or Turkish laws, in the territory of the High Contracting Parties, belonged to the nationals of the other Contracting Party or to a company in which the nationals of the said party owned the greater part of the share capital, the right to liquidate the said company or enterprise, as provided in Article 297 (*b*) of the Treaty of Versailles and in the corresponding articles of the other Treaties of Peace, shall not be exercised except after an agreement between the High Contracting Parties.

If a company or enterprise is liquidated by one of the High Contracting Parties in virtue of the rights provided by the Treaties of Peace, and if nationals of the other Party are interested, the said nationals shall, in all cases, receive a share of the proceeds of liquidation proportionate to their interests.

If a national of either of the two countries proves before the Mixed Arbitral Tribunal, provided for in Section VI of Part X (economic clauses of the Treaty of Versailles), or before an arbitrator designated by the said tribunal, that the conditions of sale or measures adopted, apart from its general legislation, by the Government of the State in question, have worked unjustly in the matter of price, the tribunal or the arbitrator shall be empowered to award the owner just compensation, which shall be paid by the State in question.

#### *Article 7.*

Companies or firms constituted under the German, Austro-Hungarian or Russian laws, whose chief works or head offices were situated, before August 1, 1914, in the territories transferred to Poland, and in which the greater part of the share capital belonged to Belgian nationals, or to companies in which the nationals of the latter country owned the greater part of the share capital, shall be entitled to transfer their property, rights and interests to any other company which may have been constituted either under the laws of Poland or of Belgium, as the Belgian nationals may prefer, and which has been authorised in conformity with the Polish laws.

Companies constituted under the Belgian laws, whose chief works or administrative offices were situated, before August 1, 1914, in territories transferred to Poland, and in which the greater part of the share capital belonged to Belgian nationals, or to companies in which the nationals of the latter country owned the greater part of the share capital, shall be entitled freely to carry on their business in conformity with the provisions of the Commercial Treaty concluded between the High Contracting Parties and signed on the present date.

Any authorisations which may be necessary to give effect to the two preceding paragraphs shall be granted of right, except in the case of industries which, in view of their general utility, may be subjected to special restrictions by a law or by a decision of the Cabinet.

This transfer shall not be subject to any charge or tax.

#### Article 8.

Without prejudice to the right of Polish nationals to claim compensation, Poland undertakes not to invalidate decisions which may have been taken between the date of the beginning of the war and a date three months after signature of the present Convention by the general meetings of companies whose head offices were situated in any territories now incorporated in Poland, on the grounds that these general meetings were held in a foreign country.

#### Article 9.

The High Contracting Parties shall accord to each other's nationals who have suffered war-damages the same respites in regard to the payment of debts as are granted to their own nationals.

#### Article 10.

Except as provided in any special agreements which may be concluded, account shall only be taken, in the application of Articles 5, 6 and 7 and of Articles 11, 12, 13, 14, 15 and 16, of the interests which were possessed before August 1, 1914, by Belgian and Polish nationals in the said companies or enterprises.

#### Article 11.

(a) Contracts concluded between persons who are now under Polish jurisdiction and persons under Belgian jurisdiction who have become "separated parties" *i. e.* "parties between whom intercourse is prohibited" (*parties séparées*), in the sense of the first paragraph of the attached Annex, shall be considered as annulled as from the time at which any two of the parties came into that category, except as regards debts and other pecuniary obligations incurred in execution of any act or payment provided for in the said contracts, and subject to the exceptions and the special rules in certain contracts, as laid down below or in the attached Annex.

(b) Contracts the execution of which is demanded within six months, dating from the coming into force of the present Convention, in the general interest and in pursuance of agreements between the High Contracting Parties, shall be exempted from annulment under the terms of the present Article.

When the execution of the contracts thus maintained in force involves considerable injury to the interests of one of the parties as a result of the change in the commercial situation, the party in question shall be granted equitable compensation by an arbitrator chosen by agreement between the High Contracting Parties.

(c) None of the provisions of the present Article or of the attached Annex shall be regarded as invalidating any operation which has been legally carried out under the terms of a contract concluded with the authorisation of one of the belligerent Powers by parties between whom intercourse has been prohibited (*parties séparées*).

(d) In the case of contracts involving the grant of licences, and contracts for the exploitation of rights or of industrial, literary or artistic property, concluded by persons between whom intercourse has been prohibited, the original beneficiary of a licence of this kind shall be entitled, six months after the coming into force of the present Convention, to claim from the beneficiary of the rights a new licence, the conditions of which may, in the absence of an agreement, be fixed by a competent tribunal in the country in which the rights exist.

*Annex to Article II.*

## I. GENERAL PROVISIONS.

(1) Under the terms of Articles 11, 12 and 13, persons who are parties to a contract shall be considered as "separated" (*séparées*) when commercial intercourse between them has been prohibited by the laws, decrees or regulations of the State of which one of these parties is a national, or if such intercourse has become illegal in any manner whatever. Intercourse between them shall be considered as having ceased as from the date on which commercial dealings were prohibited or became illegal in any manner whatever. The expression "period of separation" (*période de séparation*) refers to the period during which such intercourse is illicit.

(2) The following instruments shall be exempt from the annulment provided for in Article 11, and shall remain in force, subject, however, to the provisions of the laws, decrees and internal regulations laid down during the war prior to November 11, 1918, and subject also to the terms of the contracts :

- (a) contracts for the transfer of the ownership of goods or movable or immovable property, when such ownership was transferred or the object was handed over before commercial intercourse between the parties was prohibited ;
- (b) contracts relating to long and short-term leases and *promesses de location* ;
- (c) deeds relating to mortgages, pledges or security ;
- (d) contracts for mining, mineral and quarrying concessions ;
- (e) contracts concluded between private persons or companies and States, provinces and municipalities or other and similar legal or administrative persons ;
- (f) articles of association ;
- (g) contracts referring to family relations ;
- (h) contracts, with or without valuable consideration, for charitable purposes or in connection with the support of parents or other relatives ;
- (i) contracts establishing donations of any kind ;
- (j) insurance and re-insurance policies.

(3) If part of the provisions of a contract are cancelled under the terms of Article 11, the other provisions of such contract shall remain in force, subject to the provisions of the domestic laws, as laid down in paragraph 2, always provided that it is possible to make such differentiation. Otherwise the whole of the contract shall be considered as cancelled.

## II. SPECIAL PROVISIONS WITH REGARD TO CERTAIN CLASSES OF CONTRACTS — OBLIGATIONS UNDERTAKEN IN STOCK AND COMMERCIAL EXCHANGES.

(a) The regulations made during the war by recognised Stock Exchanges or Commercial Exchanges, providing for the settlement of obligations in Stock Exchanges undertaken before the war by persons with whom intercourse has been prohibited, shall be confirmed by the High Contracting Parties by means of measures in execution of these regulations, provided, however, that :

- (1) it has been expressly laid down that the operation is in conformity with the regulations of the Exchange ;
- (2) such regulations are binding upon all ;
- (3) the conditions are just and reasonable.

(b) The preceding paragraph shall not apply to measures taken on the Exchanges in regions occupied by the enemy during the period of occupation.

*Pledges.*

The sale of a pledge deposited as security for a debt due from one of the parties with whom intercourse has been prohibited shall be considered as valid in the event of non-payment, even when it has not been possible for the owner to be notified, provided that the creditor has acted in good faith and has taken reasonable care and precaution ; in this case the owner has no claim in respect of the sale of the security.

*Commercial Bills.*

If a person is obliged, either before or during the period of prohibited intercourse, to make payment in respect of a bill as the result of an engagement towards such person contracted before the war by another person, with whom intercourse has been prohibited, the latter shall still be bound to guarantee the former in respect of the consequences of his obligation, despite the fact that intercourse between the parties has been prohibited.

*Article 12.*

(a) In the territory of the High Contracting Parties, and in the relations of parties between whom intercourse has been prohibited, all periods within which proceedings for the extinction, quashing or foreclosure of debts must be instituted shall be suspended during the period of prohibition of intercourse, whether such periods began to run before the commencement of the prohibition or after ; these periods will be resumed not later than three months after the coming into force of the present Convention. This provision shall apply to the periods for the presentation of interest or dividend-bearing coupons, and also for the presentation for payment of securities draw by lot or repayable on any other grounds.

(b) As regards bills, the period of three months provided for in the preceding paragraph shall run as from the date on which the exceptional measures with regard to bills applied in the territories of the Power concerned shall have been finally withdrawn.

*Article 13.*

In the relations between separated parties (*i.e.* parties between whom intercourse has been prohibited), no bill shall be considered as invalidated merely for the reason that it has not been presented for acceptance or payment within the prescribed period, that notice of non-acceptance or non-payment has not been given to the drawers or endorsers, that it has not been protested or that some formality has not been complied with during the period of prohibited intercourse.

If the period during which a bill should have been presented for acceptance or payment, or during which the notice of non-acceptance or non-payment should have been given to the drawers or endorsers, or during which the bill should have been protested, has lapsed during the period of prohibited intercourse, and if the party who should have presented or protested the bill or notified its non-acceptance or non-payment did not do so during that period, he shall be granted a term of at least three months after the coming into force of the present Convention in order to present the bill, notify its non-acceptance or non-payment or proteste it.

*Article 14.*

The High Contracting Parties agree to consider as final, and to render applicable in their territory, the decisions of the Mixed Arbitration Tribunals set up by them under the terms of Section VI, Part X of the Treaty of Peace with Germany, and the corresponding sections of the other Treaties of Peace.

*Article 15.*

No action may be taken, nor may any claim be advanced, by Poland or Polish nationals, of the one part, or by Belgium or Belgian nationals of the other part, arising out of the utilisation during the war of rights of industrial, literary or artistic property which belong to persons between whom intercourse has been prohibited, by the Belgian or Polish Governments or by any person acting on their behalf or under their instructions, nor may any action be taken on account of the sale or offering for sale or the utilisation of products, articles or plant of any kind to which such rights apply.

No action may be taken, nor may any claim be advanced, by persons residing in or carrying on an industry in the territory of Poland, of the one part, or of Belgium, of the other part, or by the nationals of these Powers, or by third parties to whom such persons may have ceded their rights during the war, on account of such rights having been utilised in the territory of the other Party during the war in a manner which might be considered as infringing the rights of industrial property or the rights of literary or artistic property, which belonged to persons between whom intercourse was prohibited, which existed at any time during the war and which have to be restored under the provisions of Articles 307 and 308 of the Treaty of Versailles or the corresponding Articles of the other Treaties.

*Article 16.*

Any disputes with regard to the interpretation of the present Convention shall be submitted to an arbitrator appointed by agreement between the High Contracting Parties.

*Article 17.*

The present Convention shall be ratified and the ratifications shall be exchanged at Brussels as soon as possible.

The Convention shall come into force on the 30th day after the exchange of ratifications.

In faith whereof the Plenipotentiaries have signed the present Convention.

Done in duplicate at Brussels this 30th day of December, 1922.

(Signed) HENRI JASPAR.

(Signed) COMTE L. SOBANSKI.